



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH
1102 SE Quince Street • PO Box 47990
Olympia, Washington 98504-7990

October 9, 2002

TO: Washington State Board of Health Members

FROM: Carl Osaki, Member

RE: **DOH REQUEST FOR LEGISLATION AMENDING RCW 43.20.050 – POWERS AND DUTIES OF THE STATE BOARD OF HEALTH (REGARDING FOOD SERVICE REGULATIONS)**

Background and Summary

The Board has authority to adopt public health rules related to environmental conditions in food service establishments (RCW 43.20.050). The state food code, Chapter 246-215 WAC, is currently under revision with the goal of developing regulations that are more consistent statewide, using the FDA Food Code as a guide (see CR-101, attached).

Earlier this year legislation was considered that would have accelerated the rule revision process and pre-empted the authority of local health jurisdictions to make more stringent regulations (see Engrossed Substitute Senate Bill 6588, attached). Discussions surrounding the food code rule revision timeline resulted in an agreement that the Board shall adopt updated food service rules no later than December 31, 2004.

Further discussions resulted in the concept of legislation that would reference the FDA Food Code (see attached draft legislation). This would shorten the food service rule revision process, by removing the need, under the Administrative Procedures Act, for economic analyses of the impacts of any sections of the revised regulations that reference the FDA food code.

DOH staff has discussed the draft legislation with me, and I support the concept. However, the draft legislation proposes to implement that concept by exposing the legislative section that contains the bulk of the Board's powers and duties. This includes the Board's power to regulate water, food, infectious disease, on-site sewage, isolation and quarantine, and much more. While the draft legislation has a tight title intended to limit its scope, there can be no assurance the bill will not attract other amendments.

Recommended Board Action

I recommend that the Board consider adopting the following motion:

The Board requests that the Department of Health and the Office of Financial Management modify the DOH request legislation referencing the FDA Food Code as a basis for food service regulations. The modification should be to remove section 050 of chapter 43.20RCW from the proposed bill and instead place the following language in a new section within that chapter:

“The State board shall consider the most recent version of the United States food and drug administration’s food code for the purpose of adopting rules for food service.”